



Transportation Updates and Regulatory News (TURN)

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Improving Motor Carrier Safety Measurement

On June 27, 2017, the National Academies of Sciences, Engineering, and Medicine [announced](#) the availability of the report, [Improving Motor Carrier Safety Measurement](#), required by [Section 5221](#) under Part II—Compliance, Safety Accountability Reform of the Fixing America's Surface Transportation Act. The announcement stated that “while the Federal Motor Carrier Safety Administration’s (FMCSA) Safety Measurement System (SMS) used to identify commercial motor vehicle carriers at high risk for future crashes is conceptually sound, several features of its implementation need improvement...” FMCSA will submit the report to Congress and the Inspector General for the U.S. Department of Transportation.

Within 120 days of submitting the report, FMCSA will submit a corrective action plan to Congress and the Inspector General. Within an additional 120 days of receiving the corrective action plan, the Inspector General will submit a review of the corrective action plan to Congress.

Flexible Sleeper Berth Pilot Program

On June 27, 2017, FMCSA [proposed](#) for public comment, an information collection to support “a pilot program to allow temporary regulatory relief from the Agency’s sleeper berth regulation for a limited number of commercial drivers who have a valid commercial driver’s license (CDL), and who regularly use a sleeper berth to accumulate their required 10 hours

of non-duty work status. During the pilot program, participating drivers would have the option to split their sleeper berth time within parameters specified by FMCSA. Driver metrics would be collected for the duration of the study, and participants’ safety performance and fatigue levels would be analyzed. This pilot program seeks to produce statistically reliable evidence on the question as to whether split sleeper berth time affects driver safety performance and fatigue levels.”

Supreme Court Declined to Review Driver Privacy Cases Involving Data Logging and Records

On June 19, 2017, Landlinemag.com reported that the Supreme Court did not accept the [petition](#) to review a



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lower court's [decision](#) that dismissed Operator-Owner Independent Drivers' Association (OOIDA) members' case involving the Privacy Act and FMCSA's release of [Pre-Employment Screening Program](#) data. OOIDA maintains that under the [Privacy Act](#), FMCSA should not disseminate inspection reports that contain references to alleged safety violations that it has determined to be serious driver-related safety violations, when these type of violations are not listed in FMCSA's system of records.

On June 12, 2017, [Landlinemag.com](#) reported that the Supreme Court denied the OOIDA [petition](#) to review a lower court's [decision](#) to not vacate FMCSA's Electronic Logging Devices and Hours of Service Supporting Documents; [Final Rule](#). OOIDA contends the rule violates the [Fourth Amendment's](#) protection against warrantless searches and seizures.

Under Supreme Court [procedures](#), "four of the nine Justices must vote to accept a case....the Court usually is not under any obligation to hear these cases, and it usually only does so if the case could have national significance, might harmonize conflicting decisions in the federal Circuit courts, and/or could have precedential value. In fact, the Court accepts 100-150 of the more than 7,000 cases that it is asked to review each year." In a [recent case](#), Chief Justice Roberts stated "it is important to recall our frequent admonition that "[t]he denial of a writ of certiorari [a request that the Supreme Court review a lower court's decision] imports no expression of opinion upon the merits of the case."

Electronic Logging Device Implementation National Tour

On July 10, 2017, FMCSA announced its electronic logging device (ELD) Implementation National Tour – a public education and outreach campaign geared towards

helping commercial motor vehicle (CMV) drivers transition to ELDs. On the tour, FMCSA subject matter experts will discuss what drivers need to do to ensure compliance with the ELD rule. Participants will have the opportunity at select events to attend a presentation on ELD implementation, as well as ask subject matter experts questions at FMCSA's interactive exhibit booth, where they will have access to consumer-friendly resources and materials.

Event dates and locations are as follows:

- July 13-15 – [Iowa 80 Truckstop Jamboree \(Walcott, IA\)](#)
- August 24-26 – [Great American Trucking Show \(Dallas, TX\)](#)
- September 25-27 – [North American Commercial Vehicle Show \(Atlanta, GA\)](#)
- October 14-15 – [California Trucking Show \(Ontario, CA\)](#)
- October 21-24 – [American Trucking Associations Management Conference & Exhibition \(Orlando, FL\)](#)
- November 6-8 – [Women in Trucking Accelerate! Conference & Expo \(Kansas City, MO\)](#)

Applications for an Exemption from Electronic Logging Device Requirements

FMCSA published, for public comment, the following applications for an exemption from the requirement that a motor carrier install and require each of its drivers to use an ELD to record the driver's hours-of-service (HOS) no later than December 18, 2017:

- MBI Energy Services, [July 10, 2017](#)
- Pipe Line Contractors Association, [July 10, 2017](#)
- United Parcel Service Inc., [June 9, 2017](#)

In each case, FMCSA must determine whether an exemption, if granted, will achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent the exemption.

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